

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**



FILED

05-14-07
04:59 PM

In the Matter of the Application of the Exposition Metro Line Construction Authority for an order authorizing the construction of a two-track at-grade crossing for the Exposition Boulevard Corridor Light Rail Transit Line across Jefferson Boulevard, Adams Boulevard, and 23rd Street, all three crossings located along Flower Street in the City of Los Angeles, County of Los Angeles, California.

Application 06-12-005
(Filed December 6, 2006)

Application 06-12-020
(Filed December 19, 2006)

Application 07-01-004
(Filed January 2, 2007)

Application 07-01-017
(Filed January 8, 2007)

Application 07-01-044
(Filed January 24, 2007)

Application 07-02-007
(Filed February 7, 2007)

Application 07-02-017
(Filed February 16, 2007)

Application 07-03-004
(Filed March 5, 2007)

And Consolidated Proceedings.

**REPLY OF
EXPOSITION METRO LINE CONSTRUCTION AUTHORITY
TO AMENDMENT TO PROTESTS SUBMITTED BY
MARK JOLLES AND EXPO COMMUNITIES UNITED**

NOSSAMAN, GUTHNER, KNOX & ELLIOTT, LLP

Martin A. Mattes

Jose E. Guzman, Jr.

50 California Street, 34th Floor

San Francisco, CA 94111

Tel.: (415) 398-3600

Fax: (415) 398-2438

E-mail: mmattes@nossaman.com

Attorneys for EXPOSITION METRO LINE
CONSTRUCTION AUTHORITY

May 14, 2007

SUBJECT INDEX

	Page
I. GENERAL COMMENTS	2
II. RESPONSE TO SPECIFIC CONCERNS EXPRESSED BY ECU	4
A. Exclusive versus Semi-Exclusive Right of Way	4
B. Schools Along the Alignment and Pedestrian Safety.....	5
C. Grade Separation of Major Arterial Streets.....	6
D. Meeting Noise and Vibration Standards	7
E. Closure of Street and Pedestrian Crossings.....	7
F. Use of Diagnostic Review Teams	8
G. Concerns Specific to Applications 06-12-005 and 07-01-017	9
H. Concerns Specific to Applications 06-12-020, 07-01-004, 07-02-007, 07-02-017 and 07-03-004.....	10
III. CONCLUSION	11

TABLE OF AUTHORITIES

Page

CALIFORNIA PUBLIC UTILITIES COMMISSION RULES AND ORDERS

General Order 75-C	5, 7, 11
General Order 143	4
Rules of Practice and Procedure, Rule 2.6(e)	1
Ruling of Administrative Law Judge Koss, issued April 23, 2007	2

OTHER AUTHORITIES

Federal Transit Administration, Record of Decision: Mid-City/Exposition Light Rail Transit Project, issued February 2006.....	3, 4, 5, 7, 9, 10
Federal Transit Administration/Los Angeles County Metropolitan Transportation Authority, Los Angeles Mid-City Westside Transit Corridor Mid-City Exposition Light Rail Transit Project, Final Environmental Impact Statement/ Final Environmental Impact Report, dated October 2005.....	2, 6, 7, 9, 10, 11

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

In the Matter of the Application of the Exposition Metro Line Construction Authority for an order authorizing the construction of a two-track at-grade crossing for the Exposition Boulevard Corridor Light Rail Transit Line across Jefferson Boulevard, Adams Boulevard, and 23rd Street, all three crossings located along Flower Street in the City of Los Angeles, County of Los Angeles, California.

Application 06-12-005
(Filed December 6, 2006)

Application 06-12-020
(Filed December 19, 2006)

Application 07-01-004
(Filed January 2, 2007)

Application 07-01-017
(Filed January 8, 2007)

Application 07-01-044
(Filed January 24, 2007)

Application 07-02-007
(Filed February 7, 2007)

Application 07-02-017
(Filed February 16, 2007)

Application 07-03-004
(Filed March 5, 2007)

And Consolidated Proceedings.

**REPLY OF
EXPOSITION METRO LINE CONSTRUCTION AUTHORITY
TO AMENDMENT TO PROTESTS SUBMITTED BY
MARK JOLLES AND EXPO COMMUNITIES UNITED**

Pursuant to the Rule 2.6(e) of the Rules of Practice and Procedure of the California Public Utilities Commission (“Commission” or “CPUC”) and the Ruling of Administrative Law

Judge (“ALJ”) Koss issued April 23, 2007, in this consolidated proceeding, the Exposition Metro Line Construction Authority (“Expo Authority”) hereby submits its reply to the Amendment to Protests Submitted by Mark Jolles and Expo Communités United (“Amended ECU Protest”). The Amended ECU Protest was filed as of May 1, 2007, but an electronic version of it was not served on the Expo Authority and other parties until May 3. This reply is being filed and served on May 14, 2007, in accordance with ALJ Koss’s ruling of April 23.

I. GENERAL COMMENTS

It is clear from statements throughout the Amended ECU Protest that ECU continues to direct most of its attention to topics and concerns that are beyond the scope of the Commission’s well-defined jurisdiction over rail crossing design and safety aspects of the Exposition Light Rail Transit Project (“Expo LRT”). Many of ECU’s comments and assertions relate to issues of transit system design and policy that are within the discretion of the Federal Transit Administration (“FTA”), the Los Angeles County Metropolitan Transportation Authority (“Metro”), the City of Los Angeles Department of Transportation (“LADOT”), and/or the Expo Authority. Such issues, which clearly are beyond the scope of these consolidated applications for CPUC authorization of railroad crossings, relate to matters including regional transportation policy and planning, travel demand forecasting and modeling, travel time and efficiency, overall project costs and funding sources, and relative cost and convenience of light rail versus other public transit options.

Most of the issues of apparent concern to ECU already have been addressed, considered, and resolved in the environmental impact review process that resulted in the issuance by FTA and Metro of a Final Environmental Impact Statement/Final Environmental Impact Report (“FEIS/EIR”) for the Expo Rail project in October 2005, certification of the FEIS/EIR and a Statement of Overriding Considerations by Metro in December 2005, and

issuance of a Record of Decision by FTA in February 2006.¹ To the extent that ECU wishes to pursue these issues, it should do so by communicating directly with the agencies concerned, including Expo Authority, but should not burden the Commission or this proceeding with such extraneous issues that are beyond this Commission's authority or responsibility to resolve.

Another general comment relates to ECU's threshold assertion that "[o]ptimum safety for this rail line is grade separation." Amended ECU Protest, at 2. This stated position of ECU fails to recognize that integration with street level traffic and pedestrian access is a fundamental feature of light rail transit and an essential aspect of the design of most light rail systems. ECU might as well argue that "optimum safety for this rail line is not to run any trains at all." To insist that grade separation provides "optimum safety" effectively refuses to address the key goal of designing light rail crossings and stations that are compatible with local traffic systems and accessible and attractive to pedestrians while yet meeting high standards for the safety of all concerned. The choice of grade separation versus at-grade crossing is a complex undertaking, requiring consideration of many important factors and interests. As will be discussed below in a more specific context, the planning and design of the Expo Rail system has included evaluation of each intersection for possible grade separation in accordance with an explicit Grade Crossing Policy adopted by Metro's Board.

A last general comment concerns ECU's repeated use of the undefined term, "LACMTA/Expo" and its assertion (Amended ECU Protest, at 5) that "LACMTA/Expo . . . is an agent of LACMTA." It appears that ECU sometimes intends the term "LACMTA/Expo" to refer to Expo Authority but in other contexts may use the term in reference to actions by Metro at earlier stages in development of the Expo LRT project, thereby complicating the task of deciphering ECU's claims. In any event, the Legislature created Expo Authority as an

¹ Each of these documents is referenced in Section V of each of Expo Authority's applications and the FTA's Record of Decision is included as Exhibit D to each application.

autonomous state agency specifically to design and construct the Expo LRT project. Expo Authority is not an agent of Metro.

II. RESPONSE TO SPECIFIC CONCERNS EXPRESSED BY ECU

In the remainder of this reply to the Amended ECU Protest, Expo Authority responds selectively to specific concerns expressed by ECU that may be considered relevant to the pending applications. Generally speaking, these concerns are addressed in the order that they appear in the Amended ECU Protest. Many of the items presented as facts or argument in the Amended ECU Protest are not relevant to the Commission's responsibility for regulating rail crossing safety and are not specifically addressed in this reply.

A. Exclusive versus Semi-Exclusive Right of Way

At the end of page 3 and again at page 5, ECU indicates confusion about an apparent "discrepancy" in references to the Right of Way ("ROW") as "exclusive" in the federal Record of Decision and as "semi-exclusive" in Expo Authority's applications. The reason for the use of different adjectives is the different context of the two sets of documents.

CPUC General Order 143 (Section 9.04) classifies alignments into 3 categories, Exclusive, Semi-Exclusive and Non-Exclusive. These categories are related to how the light rail transit ("LRT") system interfaces with adjacent uses. For example, is the system grade separated (Exclusive), does the system have at-grade crossings (Semi-Exclusive), or is the system part of a mixed-traffic operation (Non-Exclusive)? For the Commission's purposes and as the term is used in General Order 143 (Section 9.04), the Expo LRT Project is a Semi-Exclusive system for most of its alignment.

The FTA's Record of Decision, at 1, states that "The LRT fixed guideway would operate in a dual track configuration mainly at-grade in selected streets or in an exclusive LACMTA-

owned Right-of-Way.” *See also*, Record of Decision, at 22-23. The Record of Decision is not referencing classifications as they are defined by the CPUC, but is rather stating the fact that a portion of the alignment runs in Right-of-Way exclusively owned and used by LACMTA.

B. Schools Along the Alignment and Pedestrian Safety

ECU notes that several schools are in the vicinity of the Expo LRT alignment, and expresses special concern about Foshay Learning Center near Western Avenue. Amended ECU Protest, at 4. Foshay Learning Center has an existing pedestrian undercrossing that will remain in place after the Expo LRT Project is completed. This pedestrian undercrossing will allow children to cross under the Expo LRT tracks, further enhancing safety at this crossing. In addition, the Expo LRT Project has closed three existing crossings of the alignment in the vicinity of the school to minimize LRT/vehicle/pedestrian conflicts in the area.

ECU also expresses concern about the safety of “special populations,” including school-aged children and seniors. ECU Protest, at 6. As presented in the applications for CPUC approval, at-grade crossings constructed by the Authority will incorporate pedestrian gate arms and swing gates consistent with CPUC General Order 75-C and with latest industry practice. Pedestrian simulations have been conducted at crossings where significant pedestrian activity is expected, including Farmdale, Vermont, Menlo, Watt, and Trousdale. Working in close coordination with the Commission’s Rail Crossing Engineering Section staff (“RCES”) and LADOT, the Authority has incorporated the results of these simulations into its crossing applications.

C. Grade Separation of Major Arterial Streets

The Amended ECU Protest, at 4, refers to the grade-separation of major arterial streets at I-10, I-405, I-105, I-101 and the Green Line. I-10, I-405, I-105 and I-101 all are classified as freeways and so, by definition, are grade separated. The Green Line runs within the median of the I-105 and this requires it be grade separated just as the freeway is. In fact, the Green Line is fully grade separated both within and outside the 105 freeway, because it originally was designed to be fully-automated, which requires an exclusive, fully grade-separated right-of-way. More generally, Light Rail by definition is intended primarily to operate at grade with at-grade crossings and only limited use of grade separations. In fact, as noted above, integration with street level traffic and pedestrian access is an essential aspect of the design of most light rail systems.

For Expo LRT, each street crossing along the LRT alignment was evaluated for grade separation in accordance with Metro Grade Crossing Policy for Light Rail Transit, adopted December 4, 2003, by Metro's Board. Application of this policy resulted in grade separations at Flower Street, Figueroa Street, La Brea Avenue and La Cienega Boulevard. For the remaining crossings, the analysis determined that at-grade solutions were possible based on expected train speeds at those locations and identification of acceptable solutions to traffic circulation and traffic safety issues. Traffic impacts that would result from operation of the Expo LRT project were further evaluated for Level of Service as part of the FEIS/EIR. Additionally, the Authority has worked closely with the City of Los Angeles Department of Transportation ("LADOT"), employing 2010 traffic forecasts among other data to develop signalization strategies and to define train operating priority or preemption at each intersection along the LRT alignment. These and other mitigation measures were identified in the FEIS/EIR

and included in a Mitigation Monitoring & Reporting Plan adopted by Metro's Board, and so were incorporated into the project scope. *See*, Federal Record of Decision, at 21.

D. Meeting Noise and Vibration Standards

ECU expresses concern about Expo LRT meeting federal noise and vibration standards. Amended ECU Protest, at 5. Whether the project meets federal standards is not the Commission's concern, however the Commission properly is concerned that the design of Expo LRT be compliant with the Commission's general orders, including the requirements of General Order 75-C specifying the choice of audible warning devices that may be employed in the operation of at-grade crossings.

Noise mitigations provided for in the FEIS/EIR include the implementation of certain measures for which CPUC approval will be required. These mitigations include modification of the Metro operating procedures to allow cessation of the sounding of grade crossing bells once the gate has reached the horizontal (closed) position, which will reduce the bell ring time to approximately 10 to 15 seconds and will, accordingly, mitigate noise impacts on the surrounding community.

Other measures that will be employed as required to achieve FTA criteria for noise impact mitigation but that do not require CPUC approval include: Use of crossing bells with a sound level of 64 dBA at 50 feet (equivalent to 75 dBA at 10 feet, as required by the AREMA standard); use of the lower decibel quacker horn (75 dBA at 100 feet in front of the vehicle consistent with CPUC General Order 75-C, Section 3.04) as part of the day-to-day operations and use of the higher-decibel (minimum 85 dBA at 100 feet) air horn only in emergencies.

E. Closure of Street and Pedestrian Crossings

ECU asserts that Expo Authority is closing four pedestrian access ways at "Rancho La Cienega Park" but has not acknowledged this plan in project documents. Amended ECU

Protest, at 6. In fact, Expo Authority, in coordination with RCES and LADOT, is eliminating nine of the existing public street crossings of the Expo LRT alignment. However, the existing lawful points of vehicular and pedestrian access to Rancho Cienega Park across the project right-of-way will be maintained as described in Application 06-12-020.

F. Use of Diagnostic Review Teams

ECU asserts that “LACMTA/Expo” has not used diagnostic review teams to involve all responsible groups, implying that Los Angeles Unified School District (“LAUSD”) has been excluded from such reviews. Amended ECU Protest, at 6.

In the development of its CPUC applications, Expo Authority has employed a Field Diagnostic process with respect to each of the planned at-grade crossings. The Field Diagnostic Team has included engineers and safety personnel from Expo Authority, Metro, LADOT, and RCES staff. This Team analyzed each of the proposed crossings and recommended changes and improvements to the design and operation of the crossing for safety as well as efficiency.

While LAUSD was not part of the Field Diagnostic Team due to their limited interfaces on the Expo LRT Project, Expo has been and continues to coordinate grade crossing design with LAUSD and with the administrators at specific facilities adjacent to the Expo LRT alignment. Expo Authority also has established coordination with LAUSD’s office of Health and Environment. Meetings have been held with the Director of that department and members of staff. These meetings have included a tour of the Pasadena Gold Line system to familiarize the group with grade crossing safety provisions for schools in close proximity to the LRT alignment. A series of regular working meetings has been established to continue clarification of grade crossing safety measures at school-related crossings and to ensure effective coordination of school safety training during both the construction and the operation of the Expo LRT system.

G. Concerns Specific to Applications 06-12-005 and 07-01-017

ECU expresses concern about the complexity and congestion of the crossings addressed in these applications and of the Expo LRT alignment in their vicinity and proposes that a series of alternatives be analyzed. Amended ECU Protest, at 7-8. Many of the suggested alternatives would require drastic redesign of the Expo LRT project, including major changes in route and station locations. These and other alternatives were considered during the environmental impact review process, and project mode, alignment, and stations were defined in the FEIS/EIR and the FTA Record of Decision. Redesign of such fundamental elements of the project is beyond the scope of Expo Authority's present applications and of the Commission's jurisdiction over rail crossing safety. Expo Authority will, however, respond to the alternatives suggested by ECU that directly relate to crossing design.

ECU would like to eliminate all left turn lanes across any rail lines. Amended ECU Protest, at 8. Current plans for Expo LRT close a total of 23 existing street or driveway crossings of the right-of-way, thereby eliminating many opportunities for left turns across the tracks. At the crossings that remain, left turn movements across the Expo LRT alignment, as presented in Application 06-12-005 and other applications, are required to maintain traffic circulation patterns and to avoid adverse traffic impacts on the surrounding street network. Therefore, the Project will maintain existing turning movements and will provide protection for left-turn movements at each crossing, either with crossing gates or with left-turn signals. Photo enforcement, supplementing the left turn signals, will be provided to monitor and enforce the allowance of left turn movements only within the appropriate signal phase.

ECU proposes a number of alternatives to rail crossings of the driveways at Los Angeles Trade Technical College ("LATTC"). Amended ECU Protest, at 8. These concerns have been resolved. Concurrently with the filing of the present reply to the Amended ECU

Protest, Expo Authority is filing an amendment to Application 07-01-017 for the purpose of eliminating six (6) driveway crossings at LATTC. The revised crossing solution at this location was developed through an intensive workshop process with active participation by LADOT, LATTC, and RCES staff, and incorporates a frontage roadway adjacent to LATTC and the Expo alignment. Incorporation of this frontage road into the project will eliminate crossings previously proposed at Driveways 1, 2, 3, 4, 5 and 5A. With the elimination of these six driveway crossings, all left turn movements for the new crossings on the entire Expo LRT system will either be signal protected, gate protected, or both.

H. Concerns Specific to Applications 06-12-020, 07-01-004, 07-02-007, 07-02-017 and 07-03-004

ECU presents a further set of concerns specific to these applications, but again proposes alternatives that would require drastic redesign of the Expo LRT project. Amended ECU Protest, at 8-9. As noted above, these and other alternatives were considered during the environmental impact review process, and project mode, alignment, and stations were defined in the FEIS/EIR and the FTA Record of Decision. Redesign of such fundamental elements of the project is beyond the scope of the present applications and of the Commission's regulatory jurisdiction. Again, however, Expo Authority will respond to ECU's suggestions that directly relate to crossing design.

ECU seeks removal of left turn options along the entire Exposition Boulevard corridor. Amended ECU Protest, at 8. Left turn movements across the Expo LRT right-of-way, as presented in Applications 07-01-004, 07-01-044, 07-02-007, 07-02-017, and 07-03-004 are required to maintain traffic circulation patterns and to avoid adverse traffic impacts on the surrounding street network. Therefore, the Project will maintain existing turning movements and will provide protected left-turn movements and related left-turn signals at each crossing.

Photo enforcement will be provided to monitor and enforce the allowance of left turn movements only within the appropriate signal phase. Application 06-12-020 includes only grade-separated crossings.

Regarding ECU's concerns about pedestrian safety (Amended ECU Protest, at 9), Expo Authority notes that in the street running sections of the Expo LRT alignment pedestrian movements will be protected by the traffic signal system, and gate protected crossings with pedestrian gate arms and swing gates will be incorporated consistent with CPUC General Order 75-C and latest industry practice. Additionally, pedestrian simulations have been conducted for crossings at Farmdale, Vermont, Menlo, Watt, and Trousdale. Working in close coordination with RCES and LADOT, Expo Authority has incorporated the results of these simulations into its crossing applications.

In response to ECU's concerns about traffic delays and back-ups at Jefferson (Amended ECU Protest, at 9), it should be noted that traffic impacts that would result from the operation of the Expo LRT project were carefully evaluated for Level of Service as part of the FEIS/EIR. The proposed lane configuration of the Jefferson/Flower intersection as presented in Application 06-12-005 exceeds the traffic mitigation measures contemplated by the FEIS/EIR for this location. Additionally, Expo Authority has worked closely with LADOT to develop the proposed signalization and train operations strategies to enhance the safety and efficiency of this crossing.

III. CONCLUSION

Expo Authority appreciates the attention the Commission has given to its grade crossing applications and understands the concern of members of the public, including ECU, about the impacts the Expo LRT project will have on their communities. Expo Authority has responded in this reply to all aspects of the Amended ECU Protest that are relevant to the

pending applications. It is evident that ECU still has not identified any specific aspects of any of the proposed crossings that require more detailed investigation or analysis.

Expo Authority once again emphasizes the need for early resolution of all pending applications. Every month of delay adds to the cost of designing and constructing the Exposition Boulevard Corridor Light Rail Transit Line and deprives commuters and other travelers in Los Angeles County of the benefits of a new, state-of-the-art alternative transit system. The vague and mainly irrelevant concerns expressed by ECU should not prevent the Commission from completing its review of the pending applications and authorizing the proposed crossings on an expeditious basis.

Respectfully submitted,

NOSSAMAN, GUTHNER, KNOX & ELLIOTT, LLP

Martin A. Mattes
Jose E. Guzman, Jr.

MARTIN A. MATTES

Martin A. Mattes

50 California Street, 34th Floor

San Francisco, CA 94111

Tel.: (415) 398-3600

Fax: (415) 398-2438

E-mail: mmattes@nossaman.com

Attorneys for EXPOSITION METRO LINE
CONSTRUCTION AUTHORITY

May 14, 2007

CERTIFICATE OF SERVICE

I, Jeannie Wong, hereby certify that on this date I will serve the foregoing
Reply of Exposition Metro Line Construction Authority to Amendment to Protests Submitted
by Mark Jolles and Expo Communities United by electronic mail, U.S. mail or hand delivery
on the service list for Application No. 06-12-005:

By electronic mail:

damienwg@gmail.com; norm.ross@propositiona.org; csimmons@successnet.net;
mjolles@pacbell.net; cmasonheller@yahoo.com; psb@cpuc.ca.gov; lark@chc-inc.org;
jeff.rabin@latimes.com; millerjo@metro.net; khawaniv@metro.net; ctliteraay@aol.com;
glenn.striegler@lausd.net; rthorpe@exporail.net; eolson@exporail.net; jokazaki@exporail.net;
jsandberg@exporail.net; gg1@cpuc.ca.gov; jfp@cpuc.ca.gov; vap@cpuc.ca.gov; klk@cpuc.ca.gov;
mlc@cpuc.ca.gov; rwc@cpuc.ca.gov; vdl@cpuc.ca.gov; dar@cpuc.ca.gov; tas@cpuc.ca.gov

By U.S. mail (to parties with no e-address listed in the CPUC service list website):

John E. Fisher
City of Los Angeles
Dept. of Transportation
100 S. Main Street
Los Angeles, CA 90012

By Hand Delivery:

Hon. Kenneth L. Koss
Administrative Law Judge
California Public Utilities Commission
505 Van Ness Avenue, 5th Floor
San Francisco, CA 94102

Executed this 14th day of May, 2007 in San Francisco, California.

/S/ JEANNIE WONG
Jeannie Wong